

SPC, SPP Reports: China Leapfrogs in IP Protection over the Past Five Years

“两高”工作报告显示,5年来

中国知识产权保护水平显著提升

Over the past five years, Chinese courts at different levels concluded 683,000 IP cases, and prosecution proceedings were launched against 120,000 suspects accused of IP crimes, 2.1 folds over the past five years, according to the reports delivered respectively by Zhou Qiang, President of Supreme People's Court (SPC) and Cao Jianming, Procurator General of Supreme People's Procuratorate (SPP) during the 13th NPC on March 9.

Zhou revealed that over the past five years, SPC issued the outline on IPR judicial protection, and worked to explore the application of punitive

damages to solve problems including low infringement repercussions but high costs for enforcing rights. China tried a series of trademark cases lodged by the U.S. basketball icon Michael Jordan, demonstrating its determination in upholding a fair competition environment. Three highly-specialized IP courts were launched in Beijing, Shanghai and Guangzhou, together with 15 IP tribunals peppered around in Tianjin, Nanjing, Wuhan and other 12 cities, paying dividends in trial quality. Zhou pointed out that in 2018, concerted efforts will be made to implement the Opinions Regarding Reform and Innovation for Trial of Intel-

lectual Property Cases, so as to improve IP trial system and upgrade legal environment via innovation.

Cao informed the congress that over the past five years, the SPP stepped up IP judicial protection by establishing information-sharing platform on striking infringement and counterfeiting in 30 provinces, autonomous regions and municipalities including Guangdong, Sichuan and Ningxia. SPP has issued the top ten typical cases of IP protection for five consecutive years. SPP bolstered research in S&T innovation, clearly defining the boundaries between legal part-time income, equity dividends, S&T income

and bribe, embezzlement as well as the boundaries between disciplinary infraction and criminal act, so as to respect and protect innovation and the public's desires to innovate. SPP handled 843 cross-regions and special cases on food and drug, environment resources, IPR and maritime, and prosecution proceedings were launched against 1,332 criminals. In 2018, SPP will be committed to ensuring legal safeguard for sustainable and healthy socio-economic development in the new era. For instance, SPP will endeavor to serve supply-side reform, make all kinds of economy property rights under well protection, screen and deliberate property-right related pleas and safeguard S&T innovation and commercialization.

(by Sun Di)

本报讯 (特派记者孙迪北京报道)3月9日,十三届全国人大一次会议在人民大会堂举行第二次全体会议,分别听取了最高人民法院工作的报告和最高人民检察院工作的报告。其中显示,过去5年,中国各级法院审结一审知识产权案件68.3万件;中国检察机关起诉制售伪劣商品、侵犯知识产权犯罪12万余人,是前5年的2.1倍。

最高人民法院院长周强回顾过去5年工作时表示,最高人民法院发布



Photo News

them a beautiful scenery.

Photo by Jiang Wenjie

During the NPC and CPPCC sessions this year, the female representatives and members of the conference are also active in their positions and offer advice and suggestions, making

在今年全国两会期间,参会的女性代表、委员们也积极履职,建言献策,成为一道亮丽的风景。

特派记者 蒋文杰 摄

要认真落实中央深改组通过的《关于加强知识产权审判领域改革创新若干问题的意见》,完善知识产权诉讼制度,优化科技创新法治环境。

最高人民法院检察长曹建明表示,过去5年,最高人民法院强化知识产权司法保护,广东、四川、宁夏等30个省市区建成打击侵权假冒执法司法信息共享平台;连续5年发布保护知识产权年度十大案例,突出打击重点。深入研究科技创新领域新情况,严格区分合法兼职获利、股权分红、科技成果转化收益与利用职权索贿受贿、挪用公款,一般违纪违法与犯罪等界限,尊重和保护好社会创造力及发展活力;办理跨地区案件和食品药品、环境资源、知识产权、海事等特殊类型案件843件1332人。2018年,要努力为新时代经济社会持续健康发展提供法治保障。服务保障供给侧结构性改革,平等保护各种所有制经济产权,依法甄别纠正产权纠纷申诉案件,保护科技创新和成果转化。

China's IP in foreign eyes

Thanks to China's digital revolution, advances in farming and billions of dollars spent on thousands of miles of new highways and railways, Chinese people away from the biggest cities are responding. Many of China's more remote areas are catching up to rich metropolises and connecting to the broader economy in ways they had not before, with potential long-term benefits for the Chinese economy and the world. (*China's Next Potential Boom Spot: The Places People Overlook*, by *The Wall Street Journal*)

近年来,中国的数字化革命、农业技术进步,以及对公路、铁路上百亿元的投资,使得远离大城市的中国农民也能感受到前所未有的变化。中国许多偏远地区正在努力追赶大城市的步伐,他们以创新的方式与国内其他地方建立更广泛的经济联系,这对中国经济乃至世界经济有潜在的长远利益。(农村和小城镇,中国的下一个经济增长点,华尔街日报)

Comment

IPR serves as underpinner for industry upgrading in both metropolises and remote areas of China. It is indispensable to beef up IP protection and bolster agricultural innovation in the course of urbanization.

点评

无论是大城市,还是偏远的农村地区,知识产权在促进产业升级方面都将扮演不可替代的角色。加强知识产权保护,提高农业科技自主创新是城镇化建设中不可或缺的一环。(柳鹏)

Guangdong High Awards Turkish Firm 1M Yuan over Trademark Infringement

欧博尔公司侵犯ZER公司商标权被判赔偿100万元

Recently, Guangdong High People's Court rendered its second-instance ruling over a trademark infringement and unfair competition case lodged by Turkey-based ZER Central Trading Company against Zhongshan Ouboer Company, determining that Ouboer had infringed the exclusive right of ZER's BEKO trademark, and upped the damages from 100,000 yuan (first-instance decision) to 1 million yuan.

ZER is a registrant of five "BEKO" trademarks including No. 1301945 and No. 1323880. Except for No. 1323880 trademark, the other four trademarks were certified to be used on home appliances with a focus on kitchen appliances. With the permission of ZER, the BEKO brand has received become popular in China after constant promotion and operation by Changzhou Beike Company and Shanghai Beike Company from 2009 to 2014.

Zhongshan Ouboer Company, founded on June 7, 2010, is a company that engages in production and distribution of home appliances, hardware accessories, and electronic products. In July and August 2010 respectively, the company registered two domain names, obeko.cn and o-beko.com to sell small household appliances. In addition, the company also promoted home appliances with the logo "O-BEKO" on the website.

ZER then filed a lawsuit with

Guangzhou Intermediate People's Court, accusing Ouboer of infringing its trademark and constituting unfair competition.

After hearing, Guangzhou Intermediate People's Court held that ZER's BEKO trademark constituted the main part of the two domain names in dispute, namely "obeko" and "o-beko". In parallel, the logo "O-BEKO" was used on the products similar as those in BEKO's certified classes, Class 7 and Class 11. In this connection, transactions of relevant products through the above two domain names on the website infringed the exclusive right of ZER, and it uses the similar logo as ZER company's registered trademark "BEKO" on the same or similar goods also infringed ZER's registered trade-

mark exclusive rights.

The court then ordered Ouboer to pay 100,000 yuan in damages. But both the two parties refused to call it a day and brought the case to the Guangdong High People's Court.

Guangdong High held that Ouboer's usage of "O-BEKO" logos infringes ZER's trademark rights, and Ouboer's usage of "O-beko" in its English company name constitutes unfair competition. In addition, Ouboer announced on its website multiple times that its annual sales revenues were between 5-10 million U.S. dollars, and even ever reached 50-100 million U.S. dollars. Considering all these facts, the court ordered Ouboer to pay 1 million yuan in damages for ZER's economic loss.

(by Jiang Xu)

本报记者 姜旭

备受关注的土耳其企业ZER中央服务商贸股份有限公司(下称ZER公司)在华商标维权案暂告一段落。近日,广东省高级人民法院(下称广东高院)就ZER公司起诉中山市欧博尔电器有限公司(下称欧博尔公司)商标侵权及不正当竞争上诉案作出二审判决,认定欧博尔公司构成对"BEKO"注册商标专用权的侵犯,并将一审中欧博尔公司需赔偿ZER公司经济损失10万元更改为100万元。

ZER公司是第1301945号、第1323880号等5件"BEKO"商标的注册人,除第1323880号商标外,其余4件商标的核定使用商品类别均为家电尤其是厨房电器类商品。经ZER公司许可,常州倍科公司和上海倍科公司于2009年至2014年期间对"BEKO"品牌进行持续宣传和经营后,该品牌家用电器在我国已具有较高知名度。

成立于2010年6月7日的欧博尔公司是一家生产销售家用电器、五金配件、电子产品等的公司。2010年7月和8月,欧博尔公司分别注册了obeko.cn和o-beko.com两个域名,并进行小家电等有关商品交易。另外,欧博尔公司还在网站上宣传冠以"O-BEKO"等标识的家电产品。

ZER公司认为,欧博尔公司涉嫌构成商标侵权及不正当竞争行为,遂向广州市中级人民法院(下称广州中院)提起诉讼。

广州中院经审理认为,欧博尔公



英文翻译 柳鹏

Translator Liu Peng

编辑 李倩

Editor Li Qian